

Nos. 1-12-3050, 1-12-3585 & 1-13-0046
(Consolidated)

NOTICE: This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

IN THE INTEREST OF:)	Appeal from the
	)	Circuit Court of
KYLE G.,	)	Cook County, Illinois
	)	Juvenile Justice and
Minor-Respondent-Appellee,	)	Child Protection Department,
	)	Child Protection Division
(The People of the State of Illinois,)	
)	
Petitioner-Appellee,)	
)	
Darnell G.,	)	No. 12 JA 42
)	
Respondent-Appellee-Father,)	
)	
v.	)	Honorable
	)	Erica Reddick,
Paulette D-G.,	)	Peter Vilkelis, and
	)	Joan Kubalanza,
Respondent-Appellant-Mother.)	)	Judges Presiding.

PRESIDING JUSTICE HARRIS delivered the judgment of the court.
Justices Quinn and Connors concurred in the judgment.

ORDER

Held: The trial court's determinations were not against the manifest weight of the evidence where it made the minor a ward of the court after finding neglect due to an injurious environment; Paulette, the primary caretaker, was noncompliant with her medications and when she was hospitalized she was paranoid, uncooperative. We also affirm the trial court's determination that it is in the minor's best interest to stay in the custody of his father, and to close the case to terminate the court's wardship.

¶ 1 Respondent, Paulette D-G., appeals from three orders of the circuit court regarding the custody of minor Kyle G. Paulette contends that the trial court erred in (1) finding Kyle G. abused and neglected after a hearing on the state's petition for adjudication of wardship; (2) finding in its dispositional order that it was in Kyle G.'s best interest to be adjudged a ward of the court; and (3) ordering the case closed upon a motion to close proceedings, and stating that custody would stand with Kyle G.'s father, Darnell G. For the following reasons, we affirm.

¶ 2 JURISDICTION

¶ 3 The trial court entered its adjudication order on June 22, 2012. The dispositional order, a final and appealable order, was entered on November 20, 2012. Paulette filed a notice of appeal with regard to the dispositional order on December 5, 2012. See *In re Barion S.*, 2012 IL App (1st) 113206, ¶ 39 (an appeal of an adjudication order is timely if filed within 30 days of entry of the dispositional order). The trial court entered an order closing the case on December 18, 2012, and Paulette filed a notice of appeal on December 27, 2012. This court has consolidated all appeals. Accordingly, this court has jurisdiction pursuant to Illinois Supreme Court Rules 301 and 303 governing appeals from final judgments entered below. Ill. S. Ct. R. 301 (eff. Feb. 1,

1994); R. 303 (eff. May 30, 2008).

¶ 4

BACKGROUND

¶ 5 Paulette and Darnell are the parents of Kyle, who was born on November 12, 2006. In November of 2011, Paulette and Darnell separated and a divorce petition filed by Darnell is pending.

¶ 6 On November 25, 2011, a call to the Department of Children and Family Services (DCFS) hotline alleged that Paulette had threatened Kyle, had a history of psychiatric hospitalizations, and was noncompliant with her medications. DCFS initiated a safety plan on December 12, 2011, whereby Darnell would remain in the home to supervise contact between Paulette and Kyle. The plan was effective for seven days and was never renewed. On December 28, 2011, Darnell and DCFS attempted to enter the home but were unable to do so because Paulette had "barricaded" the home. They notified the police who forcibly entered the home. DCFS took protective custody of Kyle and placed him with Darnell, with whom he presently lives. On January 12, 2012, the State filed a petition for adjudication of wardship and motion for temporary custody of Kyle.

¶ 7

I. ADJUDICATORY HEARING

¶ 8 The adjudicatory hearing was held on April 9, 2012. The State called Department of Child Protection (DCP) investigator Bernard Leverette as a witness. Leverette testified that after the case came to the attention of DCFS, he had a conversation with Paulette at her home on December 12, 2011. Paulette told him that she was taking prescription medications, specifically

Ativan and Prozac, and that she had four hospitalizations in the last eight years. Her most recent hospitalization was from November 9, 2011, to November 15, 2011. At the time of Leverette's visit, Darnell no longer lived in the home with Paulette and Kyle. Leverette made a safety plan where Darnell would live in the home to help care for Kyle. Both Darnell and Paulette signed the safety plan. Leverette testified that the safety plan expired on December 19, 2011, and it was not renewed.

¶ 9 On December 27, 2011, Darnell called Leverette and told him that he was unable to enter Paulette's home to check on Kyle. Leverette also attempted to enter the home on that day, but he was unable to do so. He tried to contact Paulette by phone but received no answer. On December 28, 2011, Leverette and Darnell tried again to enter the home. The entry gate was locked so Darnell jumped over the gate and tried to open the front door with his key. However, Darnell could not enter the home because something was wedged against the front door. Darnell then called out to Kyle and Kyle came to the front window. Kyle was shouting something through the window but Leverette could not understand what he was saying. At this point, Leverette also jumped over the gate and he tried to enter the home and speak with Paulette. The front door was unlocked and cracked open slightly. Leverette identified himself and tried to tell Paulette through the door that he wanted to reassess the home and re-implement the safety plan. Leverette, however, could not get Paulette to open the door or engage in conversation with him so he called the police.

¶ 10 After the police unsuccessfully tried to gain access to the home, they contacted their

supervisor and received permission to enter the residence by force. After entering the home, the police ensured the safety of Kyle and questioned Paulette. The police then placed Kyle in DCFS custody. Leverette testified that when he observed Kyle, he found him appropriately dressed with no marks or bruises on him. Leverette placed Kyle in the custody of his father on December 28, 2011. Leverette further stated that when he initiated the safety plan with Paulette, he told her that if Darnell moved out of the home she should inform DCFS of that fact. Paulette, however, never told Leverette that Darnell had moved out of the home.

¶ 11 Leverette testified that on January 9, 2012, Paulette came to his office and they discussed her psychiatric care and she showed him her prescriptions. Paulette also brought a tape recorder and told Leverette she wanted to tape their conversation. When Leverette refused, Paulette ended the meeting. Leverette informed Paulette that if she left he would be unable to refer her to services, but Paulette left the meeting anyway.

¶ 12 The hearing was continued to June 22, 2012, and on that date the trial court admitted four exhibits by the State. Exhibit 1 consisted of records from Dr. Kumar Moolayil, Paulette's psychiatrist. The records spanned from 1998 to January of 2012. In 1998, Paulette complained of depression and she worried about being poisoned by food. She was diagnosed with depression and obsessive compulsive disorder, and was prescribed Zyprexa, Prozac, and Restoril. Paulette was reluctant to take medication. The doctor's notes from 2002 to 2005 showed that Paulette struggled with depression and anxiety, but she was not psychotic, homicidal, or suicidal. She was prescribed Cogentin, Geodon, and Klonopin, although it was noted that Paulette tended to

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stop taking her medication whenever she felt well. A note from 2007 revealed that Paulette was diagnosed with schizophrenia, as well as depression, and a note from January 2007 stated that she was "paranoid at times." A note from 2010 indicated that Paulette wanted to stop taking Abilify and that she refused all antipsychotic medications. Notes from 2012 show that Paulette was diagnosed with major depression with a history of psychosis, but ruling out bipolar disorder. Also, Paulette had been noncompliant with her medication.

¶ 13 Exhibit 2 consisted of records from Paulette's hospitalization from January 31, 2010, to February 2, 2010, at St. Bernard Hospital. A note from January 31, 2010, stated that Paulette was "very paranoid, [and had] delusional thought and fractured speech. The family reports bizarre behavior and inability to sleep *** patient noncompliant with meds up to three years." Paulette was agitated and uncooperative with hospital staff. A note on February 1, 2010, stated that Paulette was "very paranoid, suspicious and delusional" and she said, "[a]ll of you are killers." Her appearance was disheveled "with poor hygiene and grooming." She also stated at one point that she was "very paranoid because I think that people are out to take my life. My baby is stressed out because of the fire alarm in the ceiling every time it goes off."

¶ 14 Exhibit 3 contained records from Paulette's three hospitalizations at Advocate Christ Medical Center that occurred in 2002, 2003, and 2007. The records from 2002 and 2003 indicate that Paulette had called 911 and Dr. Moolayil claiming that there was a plot to harm her and that her husband was trying to kill her. A note from 2003 indicated that she entered the hospital "severely psychotic" and was "unable to take care of self and dangerous to self." She also had a

history of noncompliance with medical treatment. A note from June of 2007 stated that Paulette was psychotic and delusional, was unable to take care of herself, and was potentially a danger to herself and others. Initially, Paulette refused all medications. However, she finally agreed to take Haldol, and after starting the medication she was soon stable enough for release.

¶ 15 Exhibit 4 contained medical records from Paulette's hospitalization at Little Company of Mary Hospital from November 9, 2011, to November 15, 2011. One note indicated a diagnosis of bipolar disorder, delusional disorder, alcohol abuse, and a history of noncompliance. Her husband had taken her to the emergency room, stating that Paulette threatened to hurt him and their son. She also talked about a plot to kill her. Paulette had not been taking medication for at least 3 to 4 months. Upon admission, Paulette was "agitated" and "had to be placed in restraints due to combative behavior and inability to follow directions." She also presented with auditory hallucinations and paranoia. Another note indicated that Paulette refused to give her medical history and denied the allegations, instead stating the "it is her husband who wants to hurt the child." Paulette also expressed some delusion by stating that if her son "ate a pomegane [*sic*] a miracle would occur." Paulette denied any suicidal or homicidal thoughts. Her treatment plan consisted of taking several medications, receiving individual and group counseling, and outpatient psychiatric treatment. The note listed her prognosis as "guarded."

¶ 16 At the hearing, Paulette testified on her own behalf. She stated that she never harmed or threatened anyone, including Kyle. She has seen Dr. Moolayil for 14 years for depression and psychosis, but she was never diagnosed with bipolar disorder. She had been prescribed Prozac

and Ativan for depression and anxiety, respectively.

¶ 17 Paulette stated that her 2003 hospitalization was due to stress from a legal matter and lack of sleep. In 2004, she went off her medication because she became pregnant, but the pregnancy ended in miscarriage. She became pregnant again in March 2005 but that pregnancy resulted in a stillbirth in November of 2005. Paulette became pregnant with Kyle in 2006 and she did not take medication during her pregnancy because she was concerned about the effects on the baby. Between the time of Kyle's birth in November 2006, to her hospitalization in May 2007, Paulette was not taking any medication.

¶ 18 After her hospitalization in 2007, Paulette was given medication for depression and psychosis. Paulette stated that she felt stress from another legal matter, and experienced lack of sleep and nothing else. From 2007 to 2009, she was the primary caretaker for Kyle while Darnell worked during the day. In 2010, Paulette was hospitalized because she was stressed, tired, and lacked sleep. She was working too hard and "overexerting herself ***." Paulette stated that in 2011, she rarely drank alcohol and had never been treated for alcohol problems.

¶ 19 Paulette's first contact with DCFS was on November 29, 2011, when Mr. Leverette contacted her. From that day to December 12, 2011, he contacted her frequently. On December 12, 2011, Mr. Leverette came to her home and she signed a safety plan which was effective to December 19, 2011. The plan prohibited Paulette from being home alone with Kyle and Paulette abided by the plan. However, Darnell left the home on December 20, 2011, and she did not see him again until December 28, 2011. She cared for Kyle during that time.

¶ 20 Paulette stated that on December 28, 2011, around 6 p.m., she was in the kitchen when she heard a noise at her door. She called her aunt and then she called 911. The gate in front was locked for security purposes since she lived in a high-crime neighborhood. She also used a security bar on her front door. The security bar was a three-foot long bar fitting under the doorknob. After calling 911, Paulette stated that she took Kyle upstairs to her bedroom and locked the door. When police arrived, they came upstairs and she left the bedroom. Mr. Leverette and Darnell accompanied the police.

¶ 21 On cross-examination by the State, Paulette responded that when she heard the noise at the door on December 28, 2011, she went upstairs to the bedroom but Kyle went to the window. She called for Kyle to come upstairs as well. She did not go to the window, nor did she hear Kyle call for anyone or say, "dad." Kyle never stated that Darnell was at the door, and she never heard Darnell or Mr. Leverette call to her. Paulette stated that Darnell wanted to leave the home on December 20, 2011, and he did not come to check on Kyle until December 28, 2011, when he came with the police. Paulette did not call Darnell or try to get in touch with him while he was away. Paulette stated that after the safety plan expired, she thought Darnell no longer had to remain in the home.

¶ 22 Paulette stated that she never said if Kyle ate a pomegranate a miracle would occur. She stated that she eats pomegranates. She also stated that she never refused any medications prescribed for her, although antipsychotic medications caused side effects like weight gain and mood problems. Paulette stated that when she was hospitalized in November 2011, she felt

"fine" and did not think she needed to be in the hospital. She consented to the hospitalization because the hospital attorney told her that she would go to court if she did not comply. On cross-examination, Paulette stated that she did not refuse to take antipsychotic medication. She did not need such medication and no antipsychotic medication was prescribed to her.

¶ 23 The trial court admitted Paulette's exhibit 2 which was a January 9, 2012, prescription for Prozac and Lorazepan, a generic for Ativan. Her attorney published a November 13, 2012, note from Little Company of Mary which stated that "both patient and husband deny that the patient had made threats against their son."

¶ 24 The trial court found Kyle neglected under section 2-3(1)(b) of the Juvenile Court Act (Act) (705 ILCS 405/2-3(1)(b) (West 2010)), due to an injurious environment. The court also found that he was abused under section 2-3(2)(ii) of the Act due to substantial risk of physical injury. Although there was no evidence that Kyle was abused or not cared for, the trial court determined that Paulette's actions on December 28, 2011, prevented DCFS from assessing Kyle's safety. The nature of her mental illness, along with her history of noncompliance with treatment and her aggressive and combative behavior while noncompliant, further supported the neglect and abuse finding.

¶ 25 II. DISPOSITIONAL HEARING

¶ 26 The dispositional hearing began on July 10, 2012. At that time, the trial court admitted the State's exhibits 1 and 2, consisting of the March 2012 client services plan and the March 2012 integrated assessment. The main requirement of both was for Paulette to comply with

psychiatric treatment. When the hearing recommenced on July 30, 2012, Rhonda Rogers, the DCFS caseworker assigned to the family, testified.

¶ 27 Rogers stated that she visited Kyle the previous month at his father's home and he was doing well. Kyle had been living with his father since January of 2012. He was doing well in school and he and his father had not missed any family therapy appointments. Rogers recommended that the trial court close Kyle's case with Kyle in Darnell's custody. Darnell's home was very appropriate, and Kyle appeared happy and stable.

¶ 28 Regarding Paulette, Rogers stated that her primary service need was medication management and therapy. Rogers noted that Paulette was seeing a clinical social worker named Helen Vallier who had not been referred by DCFS. Rogers was not aware that Ms. Vallier was a relative of Paulette. She responded that she was concerned about the quality of therapy based on the fact that Ms. Vallier and Paulette are related. Paulette visited Kyle regularly and Kyle had told Rogers that he would like to stay with his mother. Kyle had also said that he loves his father. Rogers stated that Paulette and Darnell were separated and did not plan to reunite. She testified that Paulette would not be able to have custody of Kyle at this point because Rogers needed to be certain that Paulette was taking her medication and attending therapy consistently.

¶ 29 On cross-examination, Rogers stated that Paulette and Darnell had a pending divorce action in Cook county. She also acknowledged that neither the client service plan nor the assessment specifically recommended therapy for Paulette. Rather, Rogers believed Paulette needed therapy. Rogers testified that Darnell has been cooperative and the only recommendation

for him was family therapy with Kyle. She believed that if the case is closed, Darnell could find the services he needs in the community.

¶ 30 Darnell testified that he stopped living with Paulette in December of 2011, and Kyle came to live with him on December 28, 2011. He has taken Kyle to doctor's appointments and is looking for a dentist. Kyle is doing well in school, but he was "confused" about being away from his mother. While Darnell is at work during the day, his grandmother cares for Kyle. Kyle regularly visits with his mother and often has overnight visits with her on the weekend. Darnell stated that if he were to have custody of Kyle after the case closed, he would continue to allow Paulette regular visits with Kyle. His main concern is that Paulette remain on her medication.

¶ 31 Paulette testified on her own behalf. She stated that the integrated assessments contained errors. She stated that she received a bachelor of science degree in accounting from the University of Illinois at Chicago in 1988. Also, she receives social security disability payments of \$1,328 per month. DCFS workers did not tell Paulette that she needed to correct anything in her home. Paulette also named aunts and cousins who serve as her support system.

¶ 32 The trial court determined that in order to resolve the issue of what is in the best interest of Kyle, it needed to delay the dispositional hearing to "get some clinical input" regarding Kyle's relationship with both parents and parenting assessments. The trial court ordered a clinical assessment of the family by the juvenile court clinic. The hearing was continued to October 24, 2012, and the court admitted the written clinical assessment as the court's exhibit 1.

¶ 33 The clinical assessment was performed by a clinical psychologist who reviewed DCFS

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and hospital records for Paulette, interviewed Paulette as well as her psychiatrist and previous therapist, and observed interactions between both parents and Kyle. The report stated that Paulette provided information inconsistent with the records. Paulette told the psychologist that she did not believe her November 2011 hospitalization was necessary, and that Darnell and her brother conspired to hospitalize her because they were involved romantically with each other. When asked about inconsistencies between what Paulette told the psychologist and the hospital records, Paulette stated that the records contained false information. Paulette claimed that others falsified the records for money. Paulette stated that she did not allow Darnell to enter her home on December 28, 2011, because "he likes to call the cops" and hospitalize her.

¶ 34 The report listed Paulette's strengths as a parent as (1) Kyle has minimal special needs and would thus present minimal parenting challenges; (2) Paulette has demonstrated love and affection for Kyle; (3) she has no history of physical abuse toward Kyle; (4) she has remained active in Kyle's life while he has lived with Darnell; (5) Paulette has no drug or alcohol problems; (6) she has a support network in place; and (7) she has shown the ability to parent Kyle and had appropriate expectations for his development. Paulette's parenting weaknesses are (1) she has poor insight into her mental health treatment, shown by her noncompliance with psychotropic medication which led to numerous hospitalizations; and (2) she has exhibited persistent paranoia. The report concluded that her poor insight and inconsistent treatment represents a potential risk to Kyle, especially if she acted as his primary caregiver.

¶ 35 On November 20, 2012, the trial court found Paulette unable to care for Kyle, and Darnell

a fit and willing parent to Kyle. It entered a dispositional order making Kyle a ward of the court. It also entered an order of protective supervision stating that Kyle would remain in the custody of Darnell. All parties requested case closure.

¶ 36 III. HEARING ON CASE CLOSURE

¶ 37 Darnell filed a motion to close the case on December 11, 2012. At the hearing on the motion, Paulette's attorney argued that the trial court should not name a custodial parent since Paulette and Darnell's divorce case was pending, and the domestic relations division would be a more proper forum for determining custody and visitation.

¶ 38 At the hearing, Latonya Hale, an intact worker with the One Hope United agency, testified that she was assigned the case on September 13, 2012. She has visited Darnell and Kyle in Darnell's home eight times since that date, and at the time of the hearing Darnell had completed counseling and was not in need of any other services. Kyle was attending play therapy and although the therapy would end if the case is closed, Hale believed that Darnell could obtain any services Kyle needed. Kyle was in first grade, and doing well academically as well as behaviorally. Kyle has expressed to Hale that he misses his mother and has told his therapist that he wants to stay with his mother. Darnell is cooperative arranging visits with Paulette and he understands how important it is for Kyle to have a relationship with his mother.

¶ 39 Paulette testified that she has been seeing Dr. Avalon, a therapist, and has had three visits since restarting therapy in the fall of 2012. Dr. Avalon's report stated that she had no concerns about Paulette's parenting. Dr. Avalon believed that if Paulette stayed with her medication and

therapy, she could parent well and have unsupervised visits with Kyle. Paulette stated that she visits Kyle mostly on weekends, and some weekdays, and she did not think Kyle was at risk living with Darnell. Kyle, however, has told her he wants to live with her.

¶ 40 On cross-examination, Paulette testified that she was presently taking Geodon, Ativan, and Prozac. She denied being diagnosed psychotic when she was admitted to Little Company of Mary Hospital in November 2011, and denied she had been prescribed antipsychotic medication in the past. She then stated that she was prescribed such medication "off and on" and that her doctors took her off the medication by their "own decision." She stated that she never went off her medication without a doctor's approval.

¶ 41 The trial court found that it was in Kyle's best interest to close the case and order custody to stand with Darnell. Paulette filed an appeal from the trial court's adjudication, disposition, and case closure orders. This court consolidated the three appeals.

¶ 42 ANALYSIS

¶ 43 The Act sets forth a two-step process courts use to determine whether a minor should be removed from a parent's custody and be made a ward of the court. *In re A.W.*, 231 Ill. 2d 241, 254 (2008); *In re Jay H.*, 395 Ill. App. 3d 1063, 1068 (2009). The trial court first conducts an adjudication hearing to determine whether a minor is abused, neglected, or dependent. *In re Jay H.*, 395 Ill. App. 3d at 1068. If the court makes such a finding, it then conducts a dispositional hearing to determine whether to make the minor a ward of the court. *Id.*

¶ 44 Paulette first appeals from the trial court's adjudication order finding that Kyle was

neglected due to an injurious environment. This court reviews the trial court's adjudication order based on the totality of the evidence. *In re A.W.*, 231 Ill. 2d at 261. The trial court is in the best position to observe the demeanor of witnesses, assess their credibility, and weigh the evidence. *In re C.N.*, 196 Ill. 2d 181, 208 (2001). Therefore, a reviewing court will not disturb the trial court's adjudication and dispositional determinations unless they are against the manifest weight of the evidence. *In re Arthur H.*, 212 Ill. 2d at 464. A finding is against the manifest weight of the evidence if the opposite conclusion is clearly evident. *In re C.N.*, 196 Ill. 2d at 208.

¶ 45 Under the Act, "neglect" generally means the failure to exercise the care that circumstances demand, and includes both willful and unintentional disregard of parental duty. *In re S.R. and D.R.*, 349 Ill. App. 3d 1017, 1020 (2004). Section 2-3(1)(b) also defines a neglected minor as "any minor under 18 years of age whose environment is injurious to his or her welfare." 705 ILCS 405/2-3(1)(b) (2010). "Injurious environment" is a broad, amorphous concept with no specific definition; however, it includes the breach of a parent's duty to ensure a safe and nurturing shelter for the minor. *In re Arthur H.*, 212 Ill. 2d at 463. "[C]ases involving allegations of neglect and adjudication of wardship are *sui generis*, and must be decided on the basis of their unique circumstances." *In re Arthur H.*, 212 Ill. 2d 441, 463 (2004).

¶ 46 Paulette was hospitalized from November 9 - November 15, 2011. Records from that hospitalization show that Paulette was diagnosed with bipolar and delusional disorders, and alcohol abuse. A note also indicated Paulette's history of noncompliance with medication and treatment, and at the time she was admitted, Paulette had not been taking her medications for 3 to

4 months. Darnell stated that Paulette threatened to hurt him and Kyle, and she thought people were out to get her. At the hospital, Paulette was agitated and "had to be placed in restraints due to combative behavior and inability to follow directions." Paulette also had auditory hallucinations and was paranoid. She appeared disheveled and had poor hygiene. It was also noted during a previous hospitalization that Paulette was psychotic and delusional. In that state she could not take care of herself and potentially was a danger to herself and others. It is evident that Paulette has a history of illness and noncompliance with medications. However, "it is not enough for the State to show simply that the parent suffers from a mental illness. Rather, the State must also show that the mental illness 'places the children in an injurious environment.' [Citations omitted.]" *In re Faith B.*, 216 Ill. 2d 1, 14 (2005). In other words, "there must be a nexus between the illness and a risk of harm to the children." *In re Faith B.*, 349 Ill. App. 3d 930, 933 (2004).

¶ 47 DCFS first contacted the family in November of 2011. Leverette, an investigator for DCFS, testified that he was in constant contact with Paulette until he visited her home on December 12, 2011. At that time, Darnell was no longer living in the home. Leverette devised a safety plan which Darnell and Paulette signed, and which provided that Darnell would stay in the home to help take care of Kyle. The safety plan expired on December 19, 2011, and was not renewed. Leverette stated that he told Paulette if Darnell left the home she should inform Leverette of that change in circumstance. After the safety plan expired, Darnell did leave but no one informed Leverette.

¶ 48 On December 27, 2011, Darnell tried to contact Paulette and enter the home to check on Kyle. He received no answer. On December 28, 2011, Darnell again tried to enter the home and Leverette accompanied him. The entry gate was locked so Darnell hopped over the gate. He tried to open the front door with his key but something was wedged against the door. Darnell called out to Kyle who had appeared at a window. Kyle shouted back. Leverette then hopped the gate and joined Darnell at the front door. The door did open a bit, and through the crack Leverette tried to talk to Paulette and explained that he wanted to reassess the home and reimplement the safety plan. When he could not get her to open the door or engage her in conversation, Leverette called the police. After the police gained entry into the home, Paulette came out of the bedroom with Kyle. DCFS placed Kyle in Darnell's custody. Leverette had a meeting with Paulette to discuss services and treatment. Paulette wanted to tape record the meeting, but when Leverette refused Paulette left without receiving a service and treatment plan.

¶ 49 Paulette testified that her hospitalizations resulted merely from stress about legal issues and lack of sleep. She and Darnell signed a safety plan with Leverette on December 12, 2011, and the plan expired on December 19, 2011. On December 20, 2011, Darnell left the home and Paulette was alone with Kyle. She did not inform Leverette that Darnell was no longer in the home. Paulette did not hear from or see Darnell until December 28, 2011. She cared for Kyle during that time.

¶ 50 Paulette stated that she lives in a high-crime neighborhood. She locked the front gate and used a security bar against the front door. On December 28, 2011, around 6 p.m., she heard a

noise at the door. She called 911 and took Kyle upstairs to a bedroom. When the police arrived, she came out of the bedroom with Kyle and she saw Leverette and Darnell standing with the police. On cross-examination, Paulette acknowledged that when she heard the noise Kyle had gone to the window. She called to him to come upstairs. Paulette stated that she did not hear Kyle say, "Dad," nor did she hear Darnell or Leverette call to her. Paulette also stated that she never refused antipsychotic medications and none were prescribed to her. She did not think she needed the medications. Paulette also stated that she did not need to be hospitalized in November of 2011, and that she only went to the hospital because a hospital attorney told her she would have to go to court if she did not comply.

¶ 51 Clearly there is a connection between Paulette's illness and a risk of harm to Kyle in that Leverette and Darnell could not communicate with Paulette or enter the home to check on Kyle's well-being. Although records indicate that she had been prescribed antipsychotic medications, Paulette stated that she does not need, nor was she prescribed, such medications. When she is not taking her medications, Paulette has been hospitalized with paranoia and delusional disorders, is agitated and defensive, and appears unable to take care of herself.

¶ 52 On December 27 and 28, Darnell tried to see Kyle but Paulette did not respond. He could not enter the home because Paulette had wedged a security bar against the front door. Leverette and Darnell called out to her, but Paulette did not respond although Kyle went to the window and communicated with Darnell. Paulette stated that she did not hear Leverette or Darnell at the door, nor did she hear Kyle say, "Dad." Only after the police forcibly entered the home could

Leverette and Darnell check on Kyle's well-being. The nature of Paulette's mental illness, along with her history of noncompliance with treatment and her aggressive and combative behavior while noncompliant, support the finding of neglect due to injurious environment. The situation in December of 2011 represented a breach of a parent's duty to ensure a safe and nurturing shelter for his or her child. The trial court's determination that Kyle was a neglected minor due to an injurious environment was not against the manifest weight of the evidence.

¶ 53 Paulette disagrees, arguing that she never made threats against Kyle's safety. The record is inconsistent, showing that Darnell once stated that such threats were made and then on another occasion that Paulette made no such threats. We defer to the trial court's determinations of witness credibility and the weight given to evidence. *In re C.N.*, 196 Ill. 2d at 208. Paulette also argues that she did not intentionally "barricade" herself and Kyle in the apartment, but that she lives in a high-crime area, she heard a noise, and she did not know Darnell and Leverette were coming to visit. However, Paulette did not respond to repeated attempts by Darnell and Leverette to talk to her. Their voices apparently could be heard from inside the home because Kyle came to the window and communicated with Darnell. We find it particularly troubling that people who came to check on Kyle could not enter the home or communicate with Paulette.

¶ 54 Paulette further contends that there is no evidence that Kyle was actually neglected or abused. However, the trial court need not wait until a child is injured to make a finding of neglect under the Act. *In re T. S.-P.*, 362 Ill. App. 3d 243, 249 (2005). Paulette's final contention is that she was released from the hospital in an improved state, and the State offered

no expert opinion that she now presents a substantial risk of injury to Kyle. Paulette does not cite any cases to support her argument that expert testimony is necessary to prove an injurious environment under the Act. Her argument without support violates Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2008), which provides that arguments "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Nonetheless, as discussed above, the record sufficiently shows that Paulette's illness and her history of noncompliance with medication creates an injurious environment for Kyle. The trial court did not err in finding that Kyle was a neglected minor under the Act.¹

¶ 55 Paulette next challenges the trial court's findings in its dispositional order. After a finding of neglect or abuse, the trial court holds a dispositional hearing to determine whether to make the minor a ward of the court and to determine proper placement of the minor. 705 ILCS 405/2-22(1) (West 2010). A minor may be made a ward of the court if the parents are unable, for reasons other than financial circumstances alone, to care for, protect, train, or discipline the minor. 705 ILCS 405/2-27(1) (West 2010). This court will not disturb a trial court's determination unless it is against the manifest weight of the evidence. *In re T.B.*, 215 Ill. App. 3d 1059, 1062 (1991).

¶ 56 Paulette challenges the trial court's finding that she is unable to care for Kyle. She argues that there was no evidence that Kyle was abused or not cared for, and prior to DCFS's

¹Due to our finding regarding neglect due to an injurious environment, we need not address the trial court's finding that Kyle was also abused under the Act. *In re Faith B.*, 216 Ill. 2d at 15.

involvement Paulette had been his primary caretaker. Also, DCFS never told her to fix anything in her home, and she had a support system of aunts and cousins who could help look after Kyle. Although it is true that Paulette has demonstrated considerable strengths as a parent, including her love for Kyle, the paramount concern of Rogers, Darnell, and the trial court is that Paulette continues to take her medications. Paulette, however, has a history of noncompliance with her medications and during those periods she has had to be hospitalized. Notes from her hospitalizations show that during those periods, Paulette did not have the ability to care for Kyle due to her paranoid and uncooperative state. The clinical assessment ordered by the trial court stated that Paulette's weakness as a parent included her poor insight into her mental health treatment, and persistent paranoia. The report concluded that Paulette's poor insight and noncompliance with medications represent a potential risk to Kyle. Rogers also opined that she did not believe Paulette should have sole custody of Kyle until DCFS is certain that Paulette is regularly taking her medications. The trial court's finding is not against the manifest weight of the evidence.

¶ 57 Paulette's final contention is that the trial court erred in closing the case. If the trial court determines that the "health, safety, and the best interests of the minor and the public no longer require the wardship of the court, the court shall order the wardship terminated and all proceedings under this Act respecting that minor finally closed and discharged." 705 ILCS 405/2-31(2) (West 2010). The best interests of the minor is the paramount consideration, even above the interests of the biological parents. *In re V.M. and M.M.*, 352 Ill. App. 3d 391, 398

(2004). On appeal, this court will uphold the trial court's finding unless it is against the manifest weight of the evidence. *Id.* at 397.

¶ 58 Section 1-3(4.05) of the Act sets forth factors the trial court must consider in making a best interest determination. These factors include:

- “(a) the physical safety and welfare of the child, including food, shelter, health, and clothing;
- (b) the development of the child’s identity;
- (c) the child’s background and ties, including familial, cultural, and religious;
- (d) the child’s sense of attachments, including:
 - (I) where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel love, attachment, and a sense of being valued);
 - (ii) the child’s sense of security;
 - (iii) the child’s sense of familiarity;
 - (iv) continuity of affection for the child;
 - (v) the least disruptive placement alternative for the child;
- (e) the child’s wishes and long-term goals;
- (f) the child’s community ties, including church, school, and friends;
- (g) the child’s need for permanence which includes the child’s need for stability and continuity of relationships with parent figures and with siblings and other relatives;

(h) the uniqueness of every family and child;

(I) the risks attendant to entering and being in substitute care; and

(j) the preferences of the persons available to care for the child.” 705 ILCS 405/1-

3 (4.05) (West 2010).

¶ 59 Kyle has been living with his father since January of 2012. He is happy and stable, and is doing well in school. Darnell is cooperative and he and Kyle did not miss any appointments. While he works, Darnell's grandmother takes care of Kyle. Kyle regularly visits with Paulette and visits overnight on weekends. Darnell stated that if he retains custody, he would continue to allow these visits. Darnell understands how important it is for Kyle to maintain a relationship with Paulette. Although Kyle has indicated that he would like to stay with Paulette, he also stated that he loves his father.

¶ 60 Hale, an intact worker with One Hope United agency, stated that Darnell had completed counseling and was not in need of other services. She further stated that if necessary, Darnell could obtain any services needed by Kyle in his community. Hale testified that she has no concerns about Paulette's parenting, and expressed her belief that if Paulette stayed with her medication and therapy she could parent well and have unsupervised visits with Kyle. Paulette testified at the closure hearing that she was presently taking her medication. However, she denied having been diagnosed psychotic and denied being prescribed antipsychotic medication in the past. She then stated that she was prescribed such medication "off and on" and that her doctors on their own volition took her off the prescription.

¶ 61 The trial court's determination to close the case and keep custody of Kyle with Darnell was not against the manifest weight of the evidence.

¶ 62 Paulette disagrees, arguing that Kyle has indicated that he wants to stay with her and she has never abused or neglected Kyle's needs. Also, she argues that Darnell and Paulette are involved in pending divorce proceedings, and "[t]he divorce court is in a superior position to assess what custodial arrangement is in the minor's best interests." Paulette's arguments on this issue make no citations to authority for support in violation of Illinois Supreme Court Rule 341(h)(7) (eff. July 1, 2008), which provides that arguments "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Furthermore, case closure under section 2-31 terminates only the wardship of the court in a case brought under the Act. 705 ILCS 405/2-31(2) (West 2010). There is no reason why the trial court in a future and separate divorce proceeding cannot address the issue of Kyle's custody and visitation at that time.

¶ 63 For the foregoing reasons, the judgment of the circuit court is affirmed.

¶ 64 Affirmed.